

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

VERNON L. STRINGHAM,

Plaintiff,

v.

KENNETH S. APFEL, Acting Commissioner  
of Social Security,

Defendant.

Case No. C04-5443RJB

ORDER OVERRULING  
PLAINTIFF'S  
OBJECTIONS,  
ADOPTING REPORT  
AND  
RECOMMENDATION OF  
THE MAGISTRATE  
JUDGE, AND  
AFFIRMING FINAL  
DECISION OF THE  
COMMISSIONER OF  
SOCIAL SECURITY  
ADMINISTRATION

This matter comes before the court on review of the Report and Recommendation of the magistrate judge. Dkt. 17. The court has considered the Report and Recommendation, plaintiff's objections to the Report and Recommendation, and the remainder of the file herein.

On August 25, 2005, U.S. Magistrate Judge J. Kelley Arnold issued a Report and Recommendation, recommending that the court affirm the Social Security Administration's final decision denying plaintiff's application for SSI disability benefits. Dkt. 17. In this action for judicial review, plaintiff contends that the ALJ failed to properly evaluate or consider his impairments in accordance with §1.04 of the Listings; the ALJ failed to properly evaluate plaintiff's testimony and credibility; the ALJ did not properly evaluate his residual functional capacity; and the ALJ failed to meet her burden of showing that plaintiff was capable of performing other work in the national economy at step-five.

1 Plaintiff raises the following objections to the Report and Recommendation: (1) the ALJ's  
2 assessment of plaintiff's credibility was not supported by substantial evidence; (2) the assessment of  
3 plaintiff's claim under the listing of impairments was in error; (3) the assessment of plaintiff's residual  
4 functional capacity was in error; and (4) the commissioner did not meet her burden to show that plaintiff  
5 could perform other work in the national economy. Dkt. 18.

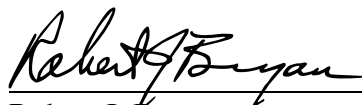
6 The court has reviewed the Report and Recommendation and the remainder of the record. The  
7 ALJ gave clear and convincing reasons to discredit plaintiff's testimony: plaintiff's subjective complaints  
8 were contradicted by evidence that his left shoulder pain prior to surgery was mild; that he was physically  
9 active in mowing his lawn, making flower pots, doing yard work, cooking and doing laundry; and that Dr.  
10 Traynor, M.D., who treated plaintiff in June 1994, found a generally normal neurology with the exception  
11 of hyperreflexia consistent with mild cord compression, and noted that his symptoms were much more  
12 dramatic than his signs suggested. The court concurs with the analysis in the Report and Recommendation  
13 as to plaintiff's other objections: the ALJ relied on substantial evidence to conclude that plaintiff did not  
14 meet § 104 of the listings; the ALJ properly evaluated plaintiff's residual functional capacity; and  
15 substantial evidence supports the ALJ's finding that plaintiff could perform other work in the national  
16 economy.

17 The decision of the Commissioner of the Social Security Administration should be affirmed.

18 Therefore, it is hereby **ORDERED** that plaintiff's objections are **OVERRULED**, and the Report  
19 and Recommendation of the magistrate judge (Dkt. 17) is **ADOPTED**. The final decision of the  
20 Commissioner of the Social Security Administration is **AFFIRMED**.

21 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
22 party appearing *pro se* at said party's last known address.

23 DATED this 16<sup>th</sup> day of September, 2005.

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26 Robert J. Bryan  
27 United States District Judge  
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